

Meeting of 2002-11-12 Regular Meeting

LAWTON CITY COUNCIL REGULAR MEETING
NOVEMBER 12, 2002 - 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor Cecil E. Powell, Also Present:
Presiding Bill Baker, City Manager
 John Vincent, City Attorney
 Brenda Smith, City Clerk
 Col. Puckett, Fort Sill Liaison

The meeting was called to order at 6:30 p.m. by Mayor Powell. Notice of meeting and agenda were posted on the City Hall notice board as required by law.

ROLL CALL

PRESENT: James Hanna, Ward Two
 Glenn Devine, Ward Three
 Amy Ewing-Holmstrom, Ward Four
 Robert Shanklin, Ward Five
 Barbara Moeller, Ward Six
 Stanley Haywood, Ward Seven
 Michael Baxter, Ward Eight

ABSENT: Randy Bass, Ward One

AUDIENCE PARTICIPATION:

Roger Cochran, Executive Director of Boulevard of Lights, gave an update on the improvements made during the past year. The opening ceremony and parade will be held November 22 at 7 p.m. The Santa Shops Lawton campaign will have its first drawing at the opening ceremony. Mayor Powell explained the ticket system to be used by the Santa Shops Lawton campaign and the prizes that will be offered; the program is an attempt to stimulate sales by local merchants. Latest sales tax figures show revenue was down .03%, which is not bad given the state and national economy.

Raymond McAlister spoke regarding the Boulevard of Lights and the upcoming holiday events.

Hanna welcomed an Armenian exchange student in the audience to observe the meeting.

CONSENT AGENDA :

MOVED by Shanklin, SECOND by Baxter, to approve the Consent Agenda items as recommended with the exception of Items 1, 3, 4 and 17. AYE: Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Hanna, Devine. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for denial: M. Catherine Colwell; Nora and Arturo DelaRosa; Steven and Christa Fields; and Tommy Sims. Exhibits: Legal Opinions and Recommendations.

Vincent recommended denial of the Colwell and DelaRosa claims, and that the Fields and Sims claims be considered separately.

MOVED by Shanklin, SECOND by Baxter, to deny the Colwell and DelaRosa claims. AYE: Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Hanna. NAY: None. MOTION CARRIED.

Vincent recommended approval of the Fields claim.

MOVED by Moeller, SECOND by Haywood, to approve the Fields claim and adopt Resolution No. 02-201 to pay the claim. AYE: Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Hanna, Devine. NAY: None. MOTION CARRIED.

Vincent said a settlement offer of \$12,000 was received on the Sims claim; staff recommendation was to deny the claim. Frank Jensen, Deputy City Attorney, reviewed the claim which involved a manhole cover hitting Mr. Sims'

truck at approximately 5th and B Avenue. Discussion was held on the situation causing the claim and whether the City or another party would be liable.

MOVED by Shanklin, SECOND by Baxter, to deny the Sims claim.

SUBSTITUTE MOTION by Devine, SECOND by Haywood, to pay the Sims claim in the amount of \$7,179 which would cover the repair costs and car rental. AYE: Moeller, Haywood, Devine, Ewing-Holmstrom. NAY: Shanklin, Baxter, Hanna.

Substitute motion failed to pass due to lack of five affirmative votes since payment of this amount would require a resolution to file a friendly suit.

VOTE ON ORIGINAL MOTION: AYE: Baxter, Hanna, Shanklin. NAY: Moeller, Haywood, Devine, Ewing-Holmstrom. MOTION FAILED.

MOVED by Shanklin, SECOND by Baxter, to table it until Bass is at a Council meeting in December, if he so desires. AYE: Haywood, Baxter, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller. NAY: None. MOTION CARRIED.

2. Consider the following damage claims recommended for approval and consider passage of any resolution authorizing the City Attorney to file a friendly suit for the claim which is over \$400.00: Andrew Yoder; Lawton Cablevision, Inc.; and Corina and William G. Weaver. Exhibits: Legal Opinions and Recommendations. (two resolutions on file) Yoder - \$316.42; Lawton Cablevision, Inc. - \$443.49 by Resolution No. 02-202; Weaver - \$428.60 by Resolution No. 02-203.

3. Consider approving renewal of the Contract for Tourism and Economic and Industrial Development Services Agreement with the Lawton Chamber of Commerce and Industry (LCCI) for allocation and expenditure of Hotel-Motel Tax Revenues. Exhibits: Agreement.

Shanklin asked why the contract was not renewed in a timely manner. Baker said there was a transition in Finance Directors and a misunderstanding that the contract provided for automatic renewal; the Chamber's budget was previously approved. Shanklin said the Chamber's report shows production of a number of retail jobs although the Chamber was not the cause of those jobs being available. Further discussion was held with Chamber representative Court Newkirk.

MOVED by Shanklin, SECOND by Baxter, to approve renewal of the contract. AYE: Baxter, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

4. Consider approving and authorizing reimbursement to the East 75th Street Water Association in the amount of \$1,400.77 for water consumption charged to their utility account in error. Exhibits: Letter.

In response to questions from Shanklin, Baker said the reimbursement is a result of a house being tied to a separate line so the resident and the association had both been billed and had both paid for the water; the City received double payments although it was not due to an error by the City.

MOVED by Shanklin, SECOND by Baxter, to approve the reimbursement. AYE: Shanklin, Moeller, Haywood, Baxter, Hanna, Ewing-Holmstrom. NAY: None. OUT: Devine. MOTION CARRIED.

5. Consider approving an agreement with the Lawton Outreach Center, Inc. for funds designated for use by the Police Department for equipment purchases and overtime hours for use in designated Weed & Seed areas; and authorize the Mayor and City Clerk to execute the agreement. Action: Approval of agreement.

6. Consider authorizing the City Attorney to close their file in the GM Class Action Law Suit. Action: Authorize the City Attorney to cease efforts to procure the certificates and close the GM Class Action Law Suit.

7. Consider ratifying the action of the City Attorney and City Manager and approve the Retainer Agreements for Legal Services between the City of Lawton and Neil West and the City of Lawton and Amy Richter Bankhead and authorize the Mayor & City Clerk to execute the agreements. Action: Approve as stated.

8. Consider accepting and approving the contributions of Keegan Ledford Construction Company, L & L Sprinkler System and Kevin Williams Landscape Services to make improvements to Prairie Park; and authorize expenditure of funds from Park Fee Fund for asphalt. Exhibits: Prairie Park Improvement Sheet. Action: Accept donations and extend the City's appreciation; approve expenditure for asphalt for parking lot.

9. Consider authorization for the Youth Services Division to implement Mock City Council Meetings for elementary age students of Lawton as a school field trip and use the City Council Chambers for the program. Action: Approve as stated.

10. Consider approving the construction plat for The Enclave, Part 1, subject to conditions. Exhibits: Plat Map;

Draft CPC Minutes. Action: Approve subject to the following conditions: 1) Approval of the Oklahoma Department of Environmental Quality; 2) Approval by the City Council of the rezoning application to zone the entire subdivision to R-1 with a Planned Unit Development overlay zone.

11. Consider issuing a revocable permit to perform geo-probe borings on the NW Laird Avenue, NW Oak Avenue, and NW 16th Street right-of-way and certain utility easements in Fields and Dunning Addition near 776 NW 16th Street. Exhibits: Application for Revocable Permit and Map; Revocable Permit. Action: Approve issuance of revocable permit to Clearwater Environmental Services, Inc.

12. Consider issuing a revocable permit to Larry L. Gee for the purpose of maneuvering of vehicles in the north/south alley adjacent to 1107 NW Bell and 1108 NW Columbia. Exhibits: Application; Revocable Permit. Action: Approve issuance of revocable permit to Larry Gee.

13. Consider ratifying the action of the Lawton Water Authority to approve a modification to the contract between Waurika Lake Master Conservancy District f/k/a Waurika Project Master Conservancy District, the Lawton Water Authority, and the City of Lawton to allow greater allocation of water. Action: Approve as stated.

14. Consider accepting the sewerline located on the east side of SW 52nd Street, north of Lee Boulevard serving the Lawton Family Foot Clinic, maintenance bond, and utility easement. Exhibits: Map. Action: Accept the sewer line serving the Lawton Family Foot Clinic located at SW 52nd Street and Lee Boulevard, the maintenance bond, and two utility easements.

15. Consider accepting the Streets/Solid Waste Collection Division Restroom Project #2001-19 as constructed by Bordwine Development and placing the Maintenance Bond into effect. Action: Approve as stated.

16. Consider accepting the NW Hoover Avenue Waterline Replacement Project #2001-14 as constructed by Davenport Construction and placing the Maintenance Bond into effect. Action: Approve as stated.

17. Consider approving the following contract extensions: A) Upholster Damaged Seats with L and L Machine; B) Rental of Linen Services with Quality Enterprises of Lawton; C) Pest Control Services with Advanced Pest and Termite Services; D) Radios (Mobile Radio Equipment Only) with Lawton Communications; E) Liquid Sulfur Dioxide with DPC Industries; F) Police Footwear with Ausley's Law Enforcement Acc.; G) Data/Telemetry Radios with Southwest Communications.

MOVED by Baxter. SECOND by Shanklin, to approve Item 17 as recommended. AYE: Moeller, Haywood, Baxter, Hanna, Shanklin. NAY: None. OUT: Devine. ABSTAIN: Ewing-Holmstrom. MOTION CARRIED.

18. Consider approving contract change order of Mowing and Litter Control II (cancellation of contract with Yardworks). Exhibits: Recommendation; Abstract. Action: Approve as stated.

19. Consider awarding contract for VHF Portable Radios. Exhibits: Recommendation; Abstract. Action: Award to Jan Communications & Electronics Co., Inc.

20. Consider awarding contract for Heavy Equipment Service and Parts. Exhibits: Recommendation; Abstract. Action: Award to Warren Cat.

21. Consider approval of appointment to boards and commissions. Exhibits: Memorandum.

Personnel Board: Rick Sinnreich, Term: 7/1/02 to 6/30/08

Redistricting Commission: G. Wayne Smith, Ward One, Term: 11/15/02 to 7/1/03
Kent Jester, Ward Two, Term: 7/1/02 to 7/1/07

Library Board: Sally Cote, Term: 6/1/02 to 5/31/04

22. Consider approval of payroll for the period of October 28 thru November 10, 2002.

23. Consider approval of Minutes of Lawton City Council Meeting of October 22, 2002.

28. Consider approving an ordinance amending Sec. 22-1-1-101 A and B, Lawton City Code, 1995, eliminating multi-family and single-family utility adjustments, or an ordinance amending Sec. 22-1-1-101 A and B, Lawton City Code, 1995, modifying utility adjustments, providing for severability, and declaring an emergency. Exhibits: 10/22/02 Agenda Item w/attachments - separate cover; 8/12/02 Agenda Item Commentary w/attachments - separate cover; Proposed Ordinance No. 02-____ eliminating vacancy adjustments; Proposed Ordinance No. 02-____ modifying vacancy adjustments.

Baker said \$175,000 was included as anticipated revenue from the vacancy adjustment. On August 12 Council directed an ordinance be returned to entirely delete the vacancy adjustment; future discussion caused a compromise to be presented. On October 22 Council considered eliminating the vacancy adjustment or having a 13% scenario which would generate \$266,000 in additional revenue for this year. The Lawton Apartment Association was not pleased with either option so a committee of the Mayor, Bass, Shanklin, Mitchell, Endicott, Wells and Baker was formed to attempt to find an agreeable rate. A meeting was held but no agreement was reached; the Association did not agree to any additional charges and wanted the City to "suck it up", tighten its belt, cut its budget, lay off employees, furlough employees and cut employee insurance benefits. Baker apologized for getting upset during that meeting.

Baker said the three options are: make no change, which would increase the budget deficit by \$175,000; totally eliminate the vacancy adjustment, which would generate considerable revenue; or the compromise from the committee to use a factor of 3,000 gallons usage per unit to determine occupancy and deduct the minimum water, sewer and \$2.35 sewer rehab fee for unoccupied units as shown by the amount of usage.

Hanna asked about a proposal from Baxter. Baxter said staff did not do the math on his proposal.

MOVED by Baxter, to adopt Ordinance No. 02-46 modifying the utility vacancy adjustment, waive the reading of the ordinance, read the title only, and declare an emergency. (Second was made by Hanna as shown below.)

Baxter said the motion is to accept Baker's plan. Ewing-Holmstrom asked if it was option two. Baxter said it is on Page 85 in the agenda folder. Baker said the ordinance itself is on Page 89 in the agenda folder.

Mayor Powell said the ordinance would cause a ten-unit complex that used 27,000 gallons to automatically receive one vacancy due to the standard of 3,000 gallons per unit; if the usage was 24,000 gallons, the bill automatically allow two vacancies; no one has to come in for an adjustment because the bill will be correctly figured in that manner.

Shanklin asked if the motion was for 13% this year, 7% next year and none the year after. Mayor Powell said no. Shanklin said that is number two on page 84 and that was all he wanted to find out. Baxter said he was not on page 84, he was on page 85.

Moeller said a clause may be needed in case of troop deployment. Ewing-Holmstrom said the City cannot help everyone if there is a deployment; every business will be affected whether it is an apartment complex or not, and she was sorry that the City had been underwriting the apartment business for years. She said she did not appreciate the threatening telephone calls and e-mails.

MOVED by Ewing-Holmstrom, to eliminate this vacancy adjustment altogether and that is Ordinance No. 02-46.

Ewing-Holmstrom said those of you who cannot vote know who you are and those of you who vote against eliminating adjustments are being bullied. She said if anyone had urged members to back off of this then they should not be up here; the members are here for the City and the citizens and no one else.

Mayor Powell said a motion had been made for the 3,000 gallons and that did not receive a second; and Ewing-Holmstrom has made a motion.

Shanklin said he understood where Ewing-Holmstrom was coming from and he respected that, but we have a great number of people, some of our leading citizens and we count on them for future votes, we are not being blackmailed, we are paying for a service that we may not get and we are not subsidizing anyone.

Ewing-Holmstrom asked if Shanklin could speak on this issue. Shanklin said yes, he was and certainly he could and he may not vote. Ewing-Holmstrom said it is a conflict of interest. Shanklin asked who was going to stop him. Ewing-Holmstrom said no one could stop Shanklin, he was in control of everything.

Shanklin said the argument is over 4% of the \$17-\$18 million enterprise fund, and that could keep these people viable; this will give a \$17 reduction on 3,000 gallons. He said the Association asked for members to bring their personal water bills and asked if anyone did so. Mayor Powell said he brought his, he did not have to but he did; the bill on his rent house at 1604 SW 52nd Street says for 17 months, the average was 3,100 gallons per month. Mayor Powell said he could have obtained a vacancy on 11 months and cheated the City out of that, and he did not chose to do so. Shanklin asked if the Mayor brought the bill on his own personal house and Mayor Powell said no.

Shanklin said the utility bill for his personal residence for seven months shows usage of 41,000 gallons for two persons and two dogs, and that is 6,000 gallons per month, not 3,000. He said we are not subsidizing these people to let them have relief for a service that we provide that they did not get.

Ewing-Holmstrom said Shanklin could not vote on this. Shanklin asked for the attorney's advice. Vincent said he

had not told Shanklin that he could not vote, he said he had told him that it might not be a good idea. Shanklin asked that Vincent say yes or no. Vincent said he could not do that. Shanklin said he was not going to vote.

SECOND by Hanna to Baxter's motion to adopt Ordinance No. 02-46 modifying the utility vacancy adjustment, waive the reading of the ordinance, read the title only, and declare an emergency.

Mayor Powell said the motion is for option number two on page 85; Baxter confirmed that was correct.

SUBSTITUTE MOTION by Ewing-Holmstrom, for proposed Ordinance 02-46 eliminating the vacancy adjustment.

Ewing-Holmstrom said there was not a second in the place. Mayor Powell said he was listening for a second and there was none so he would go back to the original motion by Baxter, which has a second; he requested a roll call on that motion. Ordinance title was read by Vincent. Vincent said six votes are required to pass the emergency and five votes are required to pass the ordinance without the emergency.

(Title read aloud) Ordinance No. 02-46

An ordinance pertaining to multi-family dwelling units exemptions amending Section 1-101, Article 1, Chapter 22, Lawton City Code, 1995, providing for severability and declaring an emergency.

VOTE ON MOTION: AYE: Haywood, Baxter, Hanna, Ewing-Holmstrom, Moeller. OUT: Shanklin. NAY: Devine.

(Note: Haywood passed on initial roll call, then voted no and then changed his vote to yes before the vote count was announced. Devine voted yes on initial roll call but changed his vote to no before the vote count was announced.)

Mayor Powell announced that there are five affirmative votes, one nay vote, and one member has chosen not to vote. Vincent said the ordinance passed but the emergency did not. Shanklin said the ordinance will go into effect in 30 days. (Note: See later action concerning the emergency clause.)

Moeller asked that the effect of this ordinance be tracked and a report be provided every 30 days. Mayor Powell asked that the refuse charges be tracked. Mitchell said it would take a little longer than 30 days to complete a total billing cycle to show the experience. Moeller asked if the issue needed to be revisited, how long would they have to wait. Mayor Powell said after six months they should have a pretty good picture. Shanklin said a different method is needed for trailer parks.

Devine said there had been controversy about threats or pressure as to how the Council should vote and he did not want to feel he was pressured by anyone. He said we never seem to help anybody that is trying to make it, such as Republic, Goodyear, Fort Sill or any of the other big entities. Devine said he did not think Council had considered how many people are employed by the apartment complexes and the economic effect it will have if all these apartment complexes become empty, how many people are going to be put out of work because of an overseas deployment. He said these people work hard, and he could feel for them because he did a lot of work for them and maybe he shouldn't have voted but he tried to be fair on every Council decision he had made and he thought they were not getting a fair shake in his opinion.

Baxter said the Council has gone from one extreme to the other and this is somewhere in between. He said when you get the facts from both sides, it is always good to come up with a compromise, and that was done here, and he knew the apartment owners did not necessarily like the compromise and he had given them another alternative but no one wanted to do the math.

Ray Bitsche said the Council's actions on the water bill would force him to close his park, and if a chain is put across the gate, there will be no revenue from it, and others may be in the same category. He said in 1996 the City established a \$3 meter charge which was applied to each apartment unit rather than the single apartment meter. Bitsche said that was not really right, the owners absorbed it but could not absorb any more. He said he was unable to pass the increased costs on to his renters since he had quite a few low income tenants and charged only \$250 a month for rent.

Discussion was held on the methods to use to charge trailer parks and the issue will be returned.

LuWayne Irwin said she would rather have spoken before the vote. She said it is still a matter of services they were paying for that they did not receive, and compared it to paying a plumber or roofer for services not rendered. Irwin said the City should charge all of the citizens \$10 to ride the bus, whether they use it or not, the service is there. She said she had received notices of soldiers deploying and it will drive them out of business. Irwin said they are a big industry, probably bigger than Goodyear, because they have 5,500 apartment complexes with six or more units, not counting duplexes, tri-plexes and four-plexes, and the Council is going to drive most them out of business.

Moeller said she wanted staff to keep an eye on this. She said a laundry room is considered as a billing unit, which is not rational because no one lives there, and some other accounting things should be looked at.

Bob Hutchins said his RV trailer park has 131 spots and takes in nightly or weekly rentals. In January, February and March, had they paid the water bills totally as sent to them, they would have lost money in January and February and made ninety-one cents in March, but with the vacancy adjustment, they were able to stay open. He said they have additional business from the workmen building the Wal-Mart, Lowe's and Home Depot. Hutchins stressed the temporary nature of the persons staying at the park and said it was not right to pay a water bill on 131 spots when 25 or 30 are occupied. He said they pay a full water bill for those renters that stay by the week or the month and the average water bill runs around 2,000 gallons because these are transients, they don't use washing machines and showers. Hutchins said a trailer is different from an RV and there are 30-35 RV spots and it is the only RV park in town. He asked that Council consider the fact that those in the park are not permanent but come and go frequently.

Mayor Powell asked for a motion for a ten minute recess. Upon motion, second and roll call vote, a recess was held from 7:30 p.m. to 7:40 p.m. All members were present upon roll call except Bass and Baxter.

Moeller asked that Baker be directed to review the accounting procedures, how the billing factors are determined and see if a volume-type accounting system can be achieved in the future. Baker said he agreed that needed to be done and he would work toward making that change.

Devine asked if Item 28 could be brought back so he could change his vote and approve the emergency clause. Vincent said one of the persons who voted in the affirmative can bring it back.

MOVED by Haywood, SECOND by Ewing-Holmstrom, to bring Item 28 back. AYE: Hanna, Devine, Ewing-Holmstrom, Moeller, Haywood. ABSTAIN: Shanklin. NAY: None. MOTION CARRIED.

Devine said he wanted to change his vote so this could be made an emergency and it could be tracked faster. Mayor Powell asked for a roll call of the entire Council on the same motion that carried previously.

ROLL CALL: AYE: Hanna, Devine, Ewing-Holmstrom, Moeller, Haywood. NAY: None. ABSTAIN: Shanklin.

This caused no change to the previous action. See action later in these minutes regarding the emergency clause on Ordinance No. 02-46.

UNFINISHED BUSINESS:

24. Consider the following damage claim recommended for denial: Sharon and Howard Smith. Exhibits: Claims Memorandum/Recommendation dated 9/30/02; Pictures by City crew.

Vincent recommended denial as the backup contained clear water rather than sewage; pictures were included showing same. Devine said the service line was stopped up, the toilet was stuck open and it filled the sewer with clear water causing the stool to run over and flood the house and that is why there was a large water bill; if it was the City main, it would have been sewage rather than clear water that flooded the house, and he recommended denial of the claim.

Michelle Smith, 908 NW 47th Street, said a City employee told her it was fresh water because the house was vacant and that was why she filed the claim.

Hanna said background information shows four previous sewer backups on this segment of pipe in the last three years, so there was an indication of problems. Vincent said the homeowner is responsible for the service line and the only backup was clear water which did not come from the City's main.

MOVED by Shanklin, SECOND by Hanna, to pay the Smith claim and approve the resolution. AYE: Hanna, Shanklin, Moeller, Haywood. NAY: Devine, Ewing-Holmstrom. Motion failed due to lack of five affirmative votes to pass the resolution.

25. Consider the following damage claim recommended for denial: John A. and Kathi A. Dunaway. Exhibits: Claims Memorandum/Recommendation dated 10/8/02; Memorandum from Raymond Justice dated 10/23/02; Map of sewer line repair.

Vincent said the sewer blockage was on a segment of line the City had replaced in 1999 and this is the first notice of a problem since the line replacement. He explained the downstream and upstream pipe segment locations involved in the claim.

John Dunaway said the City crew unstopped the line and gave him a copy of the work order and he requested reimbursement for damages.

MOVED by Haywood, SECOND by Ewing-Holmstrom, to pay \$2,345.25 in damages and adopt Resolution No. 02-204. AYE: Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood, Hanna. NAY: None. MOTION CARRIED. (Note: Devine passed on initial roll call.)

26. Consider approving an Agreement for the sale of treated water and sewer service between the City of Lawton, Oklahoma and Mr. and Mrs. Douglas Shilling and authorize the Mayor and City Clerk to execute the document.

Vincent reviewed negotiations with Shilling to develop the contract as Council had requested.

MOVED by Haywood, SECOND by Shanklin, to approve the agreement. AYE: Ewing-Holmstrom, Shanklin, Moeller, Haywood, Hanna, Devine. NAY: None. MOTION CARRIED.

30. Consider approving request for the City to construct a left turn bay on West Gore Boulevard to support the expansion of Assurant Group. Consider use of 2000 CIP Economic Development Funds. Exhibits: Letter from Assurant Group; Memo from City Traffic Engineer.

Baker said Assurant requested a left turn bay, which meets the criteria of the Council policy, and requested the City provide funding, which is not usually done. He said Assurant is adding 260 jobs and feels that is justification for use of economic development funds to construct the improvement.

MOVED by Devine, SECOND by Ewing-Holmstrom, to approve the request of Assurant for the City to construct a left turn bay on West Gore Boulevard with funding from the 2000 CIP Economic Development Fund. AYE: Shanklin, Moeller, Haywood, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

Discussion was again held on the effective date of Ordinance No. 02-46.

MOVED by Hanna, SECOND by Haywood, to bring back the emergency clause portion of Ordinance No. 02-46. AYE: Moeller, Haywood, Hanna, Devine, Ewing-Holmstrom, Shanklin. NAY: None. MOTION CARRIED.

MOVED by Moeller, SECOND by Haywood, to approve including an emergency clause in Ordinance No. 02-46. AYE: Haywood, Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller. NAY: None. MOTION CARRIED.

29. Consider receiving a briefing on the Central Junior High School Pedestrian Access Study from Traffic Engineering Consultants and providing direction to staff.

Todd Butler, Traffic Engineering Consultants, Inc., Oklahoma City, gave a briefing on methods to provide access to the newly constructed Central Junior High. Possible improvements were construction of a pedestrian bridge adjacent to the existing bridge across Fort Sill Boulevard on Cache Road, a mid-block raised pedestrian bridge across Fort Sill Boulevard, a mid-block pedestrian activated traffic signal with cross walk, raised median and fencing, and in-road lighting. Access must comply with ADA requirements.

Construction of sidewalks, drainage on the west side of Fort Sill Boulevard, relocation of existing utilities and a possible need to purchase properties for space to be able to construct improvements were noted.

Costs of all improvements were estimated at \$790,000. Using a traffic signal mid block instead of a pedestrian walkway with ramp towers was estimated to cost \$385,000.

Shanklin asked if this had been presented to the School Board. Butler said they received the study. Shanklin said some funding may be available from the 1995 CIP. Ewing-Holmstrom asked why this was not considered prior to determining the location of the school and said it should not happen again.

Baker said a traffic study was done and for major improvements of this nature, it is the responsibility of the owner to provide offsite improvements such as this. He said Central Junior High is a cooperative effort due to the way it was funded. Students will be bussed until improvements can be built. Mayor Powell appointed a committee of Shanklin, Hanna, Baker and Ihler to meet with the Board of Education.

31. Consider adopting a resolution requesting the Oklahoma State Department of Transportation to upgrade signalization with turn lanes on State Highway 7 at SE 45th Street and determine local share funding source. Exhibits: Resolution No. 02-205.

Ewing-Holmstrom spoke in favor of the resolution to improve traffic movement and safety.

MOVED by Ewing-Holmstrom, SECOND by Haywood, to approve Resolution No. 02-205 as revised and passed out this evening. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

32. Consider an ordinance altering the corporate limits of the City of Lawton, Oklahoma, by de-annexing the west of Section 17, Township One North (T-1-N), Range Twelve West (R-12-W) and declaring an emergency. Exhibits:

Ordinance No. 02-____.

Vincent said he passed out two letters received today. He said there were discussions with Cotton County Rural Water District #2 and they would like to be able to respond before action is taken on this item.

MOVED by Devine, SECOND by Hanna, to table Item 32. AYE: Hanna, Devine, Ewing-Holmstrom, Shanklin, Moeller, Haywood. NAY: None. MOTION CARRIED.

33. Consider approving the Third Amendment to the Agreement for Sale of Treated Water between the City of Lawton and the East 75th Street Water Association, and authorize the Mayor and City Clerk to execute the agreement.

Vincent said the Association wants to add eight meters; they have increased the size of the master meter and most of their service line. Staff is recommending approval.

MOVED by Hanna, SECOND by Moeller, to approve.

SUBSTITUTE MOTION by Shanklin, SECOND by Devine, to deny the request.

Shanklin said this is perpetuating development outside the City limits that may be annexed in the future and not have infrastructure that would meet City standards.

Hanna withdrew his motion and the Substitute Motion by Shanklin became the primary motion.

Mark Glenn, East 75th Street Water Association, said the association was asked by Ralph Carson several years ago to move the meter. He said the City makes revenue on the sale of water and the City is in need of revenue. He said the association increased the size of the master meter and replaced their existing line with a 3 inch line for mile, which will cover most of the customers. He said one lady will be connected as she was served through an association that no longer exists. Glenn said the association does not sell water, they just keep the pipe going and repair it at their expense.

Shanklin said the residents outside of the City limits on the east side were adamantly opposed to being annexed. He said allowing more of this perpetuates the problems Lawton can have in the future in annexing areas that were developed with infrastructure that does not meet City standards. Shanklin said he wanted to sell water and if the residents would request annexation, he would agree to it and vote to approve. He asked if staff recommended increasing the number of meters. Baker said no, the key issue states that this involves a policy issue of whether water should be sold to those outside the City limits, and the other issue is the revenue from water sales. (*Note: Baxter returned to the meeting at this point.)

Ewing-Holmstrom asked if the association took a stance on annexation. Glenn said no, some of their members were in favor and some were opposed to annexation.

SUBSTITUTE MOTION by Ewing-Holmstrom, SECOND by Baxter, to approve the request. AYE: Ewing-Holmstrom, Haywood, Baxter. NAY: Hanna, Devine, Shanklin, Moeller. SUBSTITUTE MOTION FAILED.

VOTE ON MOTION by Shanklin, SECOND by Devine, to deny the request: AYE: Devine, Shanklin, Moeller, Hanna. NAY: Ewing-Holmstrom, Haywood, Baxter. MOTION CARRIED.

34. Hold public hearings and adopt resolutions declaring the structures at: 1504 NW Baldwin Avenue, 703 SW Park Avenue and 110 NW Dearborn Avenue to be dilapidated and dangerous, thus causing a blighting influence on the community and detrimental to the public's health and safety. Authorize the City Attorney to initiate legal action declaring a public nuisance in District Court and Neighborhood Services to solicit bids to raze and remove structures, if appropriate. Exhibits: Resolution Nos. 02-206, 02-207 and 02-208.

Larry Mitchell said the owners of 703 Park and 110 Dearborn requested the resolution to provide reduced landfill fees. He presented pictures of three vacant mobile homes at 1504 NW Baldwin and recommended approval of the condemnation resolution.

PUBLIC HEARING was opened on 1504 NW Baldwin Avenue.

Mayor Powell asked if the utilities were off and Mitchell said yes. Baxter asked if this was the first time this set of mobile homes had been before Council and Hanna said yes.

Public hearing was closed.

MOVED by Hanna, SECOND by Baxter, to declare 1504 Baldwin to be dilapidated, dangerous and a blight and to adopt

Resolution No. 02-206. AYE: Ewing-Holmstrom, Shanklin, Moeller, Haywood, Baxter, Hanna, Devine. NAY: None. MOTION CARRIED.

PUBLIC HEARING was opened on 703 SW Park Avenue. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Devine, to approve Resolution No. 02-207 declaring 703 Park a dilapidated structure. AYE: Devine, Ewing-Holmstrom, Moeller, Haywood, Baxter, Hanna. NAY: None. OUT: Shanklin. MOTION CARRIED.

PUBLIC HEARING was opened on 110 NW Dearborn Avenue. No one appeared to speak and the public hearing was closed.

MOVED by Haywood, SECOND by Baxter, to approve Resolution No. 02-208 declaring 110 NW Dearborn a dilapidated structure. AYE: Ewing-Holmstrom, Moeller, Haywood, Baxter, Hanna, Devine. NAY: None. OUT: Shanklin. MOTION CARRIED.

35. Consider granting a 30-day extension to the reconstruction permit for: 6602 NW Euclid, 1107 NW Bell, 1106/1108 NW Columbia, and 2403 SW A Avenue.

Mitchell said he understood that significant progress had been made and recommended approval of the extension of the permits.

MOVED by Devine, SECOND by Moeller, to approve the permit extensions as recommended by staff. AYE: Moeller, Haywood, Baxter, Hanna, Devine, Ewing-Holmstrom. NAY: None. OUT: Shanklin. MOTION CARRIED.

Baxter asked if the structures were 75% complete. Devine said 2403 SW A had made progress.

36. Consider adopting an ordinance amending Article 19-1-111, Lawton City Code, 1995, removing language that requires a waiting list at the City lake camping grounds. Exhibits: Ord. No. 02-47.

Kim Shahan, Parks & Recreation Director, explained the current procedure of staff keeping track of persons wanting to be able to use a camp site, contacting them when it becomes available, securing it until that person arrives, and waiting a certain period of time to see if they arrive or if it can be released to the next person waiting to use it. He said the ordinance eliminates the requirement to maintain a waiting list for a camp site and allows the sites to be used on a first come, first served basis without staff involvement.

MOVED by Ewing-Holmstrom, SECOND by Moeller, to approve Ordinance No. 02-47, waive reading of the ordinance, reading the title only.

Devine expressed concern about the use of portable septic tanks by campers so close to the lake. Staff will check and report.

(Title read aloud) Ordinance No. 02-47

An ordinance pertaining to camping regulations amending Section 111, Article 1, Chapter 19, Lawton City Code, 1995, by deleting the requirement to establish waiting lists and allowing a camper who has occupied a camp site for fourteen (14) or twenty one (21) days to occupy another site only after first obtaining an additional permit from lake headquarters; providing for severability, and declaring an effective date.

VOTE ON MOTION: AYE: Moeller, Haywood, Baxter, Hanna, Devine, Ewing-Holmstrom. NAY: None. OUT: Shanklin. MOTION CARRIED.

37. Consider an ordinance amending Section 7-701, Article 7, Chapter 19, Lawton City Code, 1995, relating to prohibiting the parking of all motorized vehicles in City Parks after closing hours and prohibiting the parking of trailers at any time except by special permit issued by the City Manager. Exhibits: Ordinance No. 02-48.

Baker said parks are closed between 11 p.m. and 6 a.m. and complaints had been received about tractor trailer rigs being parked in Elmer Thomas Park over the weekend. Some are refrigerator trucks which make a certain amount of noise. He said the ordinance will prohibit any parking in any park between 11 p.m. and 6 a.m. except by special permit which would be issued when activities such as festivals or events at the museum or auditorium cause a need for vehicles.

MOVED by Devine, SECOND by Ewing-Holmstrom, to adopt Ordinance No. 02-48, waive reading of the ordinance, reading the title only and declaring an emergency.

(Title read aloud) Ordinance No. 02-48

An ordinance pertaining to parking in City parks after hours amending Section 7-701, Article 7, Chapter 19, Lawton City Code, 1995, providing for severability, and declaring an emergency.

VOTE ON MOTION: AYE: Haywood, Baxter, Hanna, Devine, Ewing-Holmstrom, Moeller. NAY: None. OUT: Shanklin. MOTION CARRIED.

Discussion was held on a need for the trucks to be able to park legally and Baker will look into it.
(*Note: Shanklin returned to the meeting at this point.)

38. Consider denying the request for a subordination agreement on the City's mortgage with Frank & Rosa Martinez for the property at 1215 SW "D" Avenue. Exhibits: Letter.

Aplin explained the subordination request and recommended denial as the loans would exceed 120% of the property value and HUD guidelines say loans should not exceed 75%.

MOVED by Ewing-Holmstrom, SECOND by Hanna, to deny the request.

Shanklin said the Council routinely authorizes subordinations, which can mean a great deal to these low income homeowners.

SUBSTITUTE MOTION by Shanklin, SECOND by Moeller, to allow the subordination and authorize the Mayor and City Clerk to execute the document.

Moeller asked if approval could cause problems with HUD. Aplin said HUD has not objected in the past, and if an objection is made, the City may be instructed to cease approval of subordinations. Discussion was held on the number of similar requests that have been approved and the requirement that staff make recommendations for approval or denial based on the current policy.

VOTE ON SUBSTITUTE MOTION: AYE: Devine, Shanklin, Moeller. NAY: Baxter, Hanna, Ewing-Holmstrom. ABSTAIN: Haywood. TIE VOTE. Mayor Powell voted yes and the motion carried.

(*Note: Shanklin left the meeting and did not return.)

39. Consider entering into agreements with Zoe N.E.E.D. Program, Inc. and Meet the Needs, Inc. to carry out CDBG projects authorized in the City of Lawton Consolidated One-Year Action Plan for FFY 2002 (July 1, 2002 thru June 30, 2003) and authorizing the Mayor and City Clerk to execute the agreements.

MOVED by Baxter, SECOND by Devine, to approve the contracts as recommended. AYE: Moeller, Baxter, Hanna, Devine. NAY: None. ABSTAIN: Haywood, Ewing-Holmstrom. MOTION CARRIED.

ADDENDUM: Consider authorizing the Mayor to send a letter to ODOT requesting that an access point onto West Lee Boulevard be changed.

Mayor Powell said this was requested by Arvest Bank for their new facility. Devine asked if there was a cost to the City and response was no.

MOVED by Devine, SECOND by Hanna, to authorize the Mayor to send a letter to ODOT requesting that an access point onto West Lee Boulevard be changed. AYE: Moeller, Haywood, Baxter, Hanna, Devine, Ewing-Holmstrom. NAY: None. MOTION CARRIED.

27. Receive the Financial Report and provide guidance to staff.

Rick Endicott, Finance Director, said there was a little increase in sales tax and water revenue over the past month. The projected deficit for the year is approximately \$2.6 million. He explained the amounts that were known deficits and those which are projection estimates.

Ewing-Holmstrom asked the reason for decreased revenue from refuse, and response was that Kan Haul was purchased by a firm that has its own landfill in Texas. Water revenue is down due to the weather, and sewer revenue is dependent upon water revenue. Baker said he had taken some actions to address the deficit and a recommendation will be presented at the next meeting to further address the situation.

Devine said the City has a tremendously large payroll and it is time for Baker to step up and make recommendations to Council, and if it means furloughing employees, it may come to that, although he would not want to have to do it. He said the City of Lawton has a lot of vehicles and reducing that could be looked at as a way to save.

Mayor Powell said the Council reviewed the budget presented by Baker and added things to it, so staff had to do what the Council directed. Ewing-Holmstrom asked to see the recommendations staff members had turned in on ways to save.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Haywood thanked Baker and Angie Alltizer for making a presentation to the Gifted and Talented Students at Douglas Elementary.

Baker said the Police Department is working on gaining space for 20 more beds in the City Jail, which is overcrowded. An agenda item will be presented, estimated cost is \$10,000.

Kim Shahan invited Council to a lunch that he is hosting and paying for on Friday with the department. He said there are many issues about the lakes that will be brought forward in the next month that will address Devine's concerns and future things.

Ewing-Holmstrom said that Arvada, Colorado, has a paperless Council agenda folder. She asked that correspondence be provided by e-mail when possible to eliminate the huge amounts of paper used.

Mayor Powell said the beautiful sculpture was dedicated at the Museum and more work will be done on the grounds.

BUSINESS ITEM: 40. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending lawsuit of Christina Avera vs. City of Lawton, Case No. CJ-2002-560, District Court of Comanche County, and if necessary, take appropriate action in open session.

Executive session was not held.

There being no further business to consider, the meeting adjourned at 9:30 p.m. upon motion, second and roll call vote.